

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

PRESTON WAYNE WALTERS,	:	
Plaintiff	:	
	:	No. 1:21-cv-01290
v.	:	
	:	(Judge Kane)
LAUREL HARRY, et al.,	:	
Defendants	:	

ORDER

AND NOW, on this 20th day of January 2023, upon consideration of Defendants’ motion to partially dismiss the second amended complaint (Doc. No. 75), and in accordance with the accompanying Memorandum, **IT IS ORDERED THAT:**

1. Defendants’ motion to partially dismiss the second amended complaint (Doc. No. 75) is **GRANTED** as follows:
 - a. Defendants’ motion (Doc. No. 75) is **GRANTED** as to Defendants’ arguments concerning Defendant Medical Department at State Correctional Institution Camp Hill (“Medical Department”). Plaintiff’s claims against Defendant Medical Department are **DISMISSED** from this action, and the Clerk of Court is directed to **TERMINATE** Defendant Medical Department as a Defendant in this action;
 - b. Defendants’ motion (Doc. No. 75) is **GRANTED** as to Defendants’ arguments concerning the alleged personal involvement of Defendant Beth Herb in the second amended complaint. Plaintiff’s claims against Defendant Beth Herb are **DISMISSED** from this action, and the Clerk of Court is directed to **TERMINATE** Defendant Beth Herb as a Defendant in this action;
2. Plaintiff is permitted to proceed on his second amended complaint with respect to his Eighth Amendment claims against Defendants Davis, Show, and Harry, and on his Fourteenth Amendment claim against Defendant Harry;
3. Plaintiff is **GRANTED** a **final** opportunity to amend his pleading by filing a third amended complaint within **thirty (30) days** of the date of this Order;
4. The Clerk of Court is directed to mail Plaintiff a civil rights complaint form. Plaintiff shall title that complaint form “Third Amended Complaint” and shall include the docket number for this case, 1:21-cv-01290;
5. If, however, Plaintiff would simply like to proceed to discovery on the surviving

claims in his second amended complaint, he is free to file a letter with the Court within the thirty (30) days, stating that he would like to proceed on the surviving claims in his second amended complaint. If Plaintiff fails to file such a letter or a third amended complaint, or an extension of time to do so, within the thirty (30) days, then this action will automatically proceed, absent good cause shown, on his second amended complaint and, specifically, on his Eighth Amendment claims against Defendants Davis, Show, and Harry, and on his Fourteenth Amendment claim against Defendant Harry; and

6. Plaintiff's motion for a brief extension of time to obtain counsel (Doc. No. 93) is **DENIED as moot**. Referral of this matter to the Chair of the Federal Bar Association's Pro Bono Committee for the purpose of locating counsel to represent Plaintiff continues to be deferred. (Doc. Nos. 40, 48, 56.) To the extent Plaintiff wishes to obtain private counsel on his own, he is free to do so.

s/ Yvette Kane
Yvette Kane, District Judge
United States District Court
Middle District of Pennsylvania